

IN THE SENATE

SENATE BILL NO. 1287

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO HOMEOWNER'S ASSOCIATION LIENS; AMENDING SECTION 45-810, IDAHO CODE, TO PROVIDE THAT A COPY OF A RECORDED LIEN SHALL BE SERVED ON THE OWNER OR REPUTED OWNER NO LATER THAN FIVE BUSINESS DAYS FOLLOWING THE RECORDING OF SUCH LIEN.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 45-810, Idaho Code, be, and the same is hereby amended to read as follows:

45-810. HOMEOWNER'S ASSOCIATION LIENS. (1) Whenever a homeowner's association levies an assessment against a lot for the reasonable costs incurred in the maintenance of common areas consisting of real property owned and maintained by the association, the association, upon complying with subsection (2) of this section, shall have a lien upon the individual lot for such unpaid assessments accrued in the previous twelve (12) months.

(2) (a) An association claiming a lien under subsection (1) of this section shall file in the county in which the lot or some part thereof is located a claim containing:

(i) A true statement of the amount due for the unpaid assessments after deducting all just credits and offsets;

(ii) The name of the owner, or reputed owner, if known;

(iii) The name of the association; and

(iv) A description, sufficient for identification, of the property to be charged with the lien.

(b) When a claim has been filed and recorded pursuant to this section and the owner of the lot subject to the claim thereafter fails to pay any assessment chargeable to such lot, then so long as the original or any subsequent unpaid assessment remains unpaid, such claim shall automatically accumulate the subsequent unpaid assessments without the necessity of further filings under this section.

(c) The claim shall be verified by the oath of an individual having knowledge of the facts and shall be recorded by the county recorder. The record shall be indexed as other liens are required by law to be indexed.

(d) Within ~~twenty four (24) hours~~ five (5) business days after recording a lien on the property, the association shall serve, by personal delivery to the owner or reputed owner or by certified mail to the last known address of the owner or reputed owner, a true and correct copy of the recorded lien.

(3) The lien may be continued in force for a period of time not to exceed one (1) year from the date the claim is filed and recorded under subsection (2) of this section; provided however, that such period may be extended by the homeowner's association for not to exceed one (1) additional year by recording a written extension thereof. For the purpose of determining the

1 date the claim is filed in those cases when subsequent unpaid assessments
2 have accumulated under the claim as provided in subsection (2) of this
3 section, the claim regarding each unpaid assessment shall be deemed to have
4 been filed at the time such unpaid assessment became due. The lien may be
5 enforced by the board of directors acting on behalf of the association.

6 (4) This section does not prohibit a homeowner's association from
7 pursuing an action to recover sums for which subsection (1) of this section
8 creates a lien or from taking a deed in lieu of foreclosure in satisfaction
9 of the lien.

10 (5) An action to recover a money judgment for unpaid assessments may be
11 maintained without foreclosing or waiving the lien securing the claim for
12 unpaid assessments. However, recovery on the action operates to satisfy the
13 lien, or the portion thereof, for which recovery is made.

14 (6) As used in this section, "homeowner's association" means any
15 incorporated or unincorporated association:

16 (a) In which membership is based upon owning or possessing an interest
17 in real property; and

18 (b) That has the authority, pursuant to recorded covenants, bylaws or
19 other governing instruments, to assess and record liens against the
20 real property of its members.

21 (7) In order to file a lien as provided in this section, a homeowner's
22 association that is an unincorporated association must be governed by bylaws
23 which provide for at least the following:

24 (a) A requirement that the homeowner's association hold at least one
25 (1) meeting each calendar year;

26 (b) A requirement that notice of any meeting of the homeowner's
27 association be published and distributed to all members of the
28 homeowner's association;

29 (c) A requirement that the minutes of all homeowner's association
30 meetings be recorded;

31 (d) A method of adopting and amending fees; and

32 (e) A provision providing that no fees or assessments of the
33 homeowner's association may be increased unless a majority of all
34 members of the homeowner's association vote in favor of such increase.